IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 36 OF 2004

Hitler Fernandes,
Sub Jail Sada,
Vasco-Goa. ...Petitioner

V e r s u s

1. State of Goa

2. Supt., Sub Jail,
Vasco. ...Respondents

Mr. V.Pangam, Advocate under Legal Aid Scheme for the Petitioner.

Ms. W. Coutinho, Public Prosecutor for the Respondents.

CORAM: N. A. BRITTO,J.

DATE : 29th September, 2005

ORAL JUDGMENT

The petitioner is seeking his early release from life imprisonment, having completed 15 years of imprisonment.

2. The petitioner is undergoing life imprisonment in Sessions Case no.5/89 and as per the affidavit filed the petitioner has undergone 15 years , 10 months and 27 days including under trial period and earned remission of 3 years, 13 days as on 9.9.2005.

3. It also appears that the petitioner has been sentenced to life imprisonment in Sessions Case no.70/2001 by the Sessions Judge, Uttar Kannada, Karwar.

4. The case of the petitioner was placed before the Committee for review of sentences vide its meeting held on 5.6.03 and the Committee felt that the case of the petitioner was not a fit case to consider for premature release because the other authorities namely, the police and the District Magistrate had not recommended the case of the petitioner for premature release.

5. By order of this Court dated 9.9.05 the Inspector General of Prisons was directed to file an additional affidavit giving the details concerning the prisoner. The said affidavit has now been filed and it is stated in the said affidavit that the case of the petitioner was placed before the Advisory Board on 5.6.03 and the said Advisory Board decided that the petitioner's case was not fit for early release as none of the authorities had recommended the premature release of the petitioner and the said Board also advised that the petitioner's case should not be placed before the Board for the next three years. In the affidavit it is also set out that the petitioner whilst undergoing the said life imprisonment had escaped from legal custody on three occasions namely, between 10.11.1994 to 27.5.1995, from 16.4.1999 to 18.9.1999 and 22.7.2000 to 12.5.2001 i.e. to say for a total period of one year, 8 months and 29

days.

6. If that has been the conduct of the prisoner while undergoing the sentence imposed upon him, the petitioner certainly did not deserve to be released prematurely. In the light of that, the petition deserves to be dismissed. Rule discharged.

N. A. BRITTO,J.

/vpf.